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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,749	12/14/2000	Gary Strawn	CISCP186	2098

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BEYER WEAVER & THOMAS LLP  
P.O. BOX 778  
BERKELEY, CA 94704-0778

EXAMINER

PHILLIPS, HASSAN A

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 01/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/738,749

Applicant(s)

STRAWN, GARY

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☒ Claim(s) 9, 25 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1, 2 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Information Disclosure Statement***

The Information Disclosure Statement (IDS) filed on April 9, 2001, has been received and considered by the examiner.

### ***Drawings***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 9, 25, 35, are objected to because of the following informalities: On page 17, line 11, page 19, line 25, and on page 21, line 24 it appears that there is a misspelled word. The examiner feels the word "lest", should be "least". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 9-11, 13, 25, 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Welter et al., U.S. Patent 6,138,157.

In considering claims 9 and 25, Welter et al. discloses a method for performing content verification of data received from a web server comprising:

- a) receiving HTML data from the network device, said data including content information, and analyzing the data for expected content using format verification rules such as matching against string values, regular expressions, and calculated values, to determine if there are errors (inconsistencies), (col. 8, lines 1-6).

In the method disclosed by Welter et al., it is inherent that the format verification rules are predetermined since "expected" content is being analyzed.

In considering claim 10 see Welter et al., col. 7, lines 66-67, and col. 8, line 1.

In considering claim 11 see Welter et al., col. 8, lines 1-6.

In considering claim 13 see Welter et al., col. 8, lines 1-6.

In considering claim 35 the disclosed method of Welter et al. shows substantial features of the claimed invention as mentioned in claim 9 above. Furthermore, Welter et al. teaches a system comprising:

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- a) at least one CPU, and memory adapted to store computer implemented processes, (col. 4, lines 1-7);
- b) an interface 24 for communicating with a network device 14, (Fig. 1).

Although not explicitly stated, it is inherent that verifying at least one format of selected content information using format verification rules is a computer implemented process in the invention disclosed by Welter et al.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5-8, 14, 15, 17-23, 26-29, 31-34, 36, 38-44, are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter et al. in view of Applicant's Admitted Prior Art (AAPA).

In considering claims 1, 14, 21, 26, 44, Welter et al. discloses a method for testing a web site comprising:

- a) transmitting a resource request to a network device, (col. 7, lines 66-67, and col. 8, line 1);
- b) receiving HTML data from the network device in response to the resource request, said data including content information, and, verifying content information by verifying the format of the selected content information

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using format verification rules that match against string values, regular expressions, and calculated values, to determine any inconsistencies, (col. 8, lines 1-6).

Although the disclosed method of Welter et al. shows substantial features of the claimed invention, it fails to explicitly disclose:

- a) determining the health status of the network device based upon results of said content verification.

The applicant admits in the disclosure that it is well known in the art to determine the health status of a network device based upon analyzing the data of the server's response (pg. 3, lines 17-26). Thus, given the AAPA, it would have been obvious to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Welter et al., in order to determine the health status of a server based on analyzing the data of the server's response. The motivation for doing so would have been to determine whether there is a problem with the server when the web site is running properly, Welter et al., col. 1, lines 29-35. Therefore, the claimed inventions (claims 1, 14, 21, 26, and 44) would have been an obvious modification of the methods disclosed by Welter et al.

In considering claims 2, 22, and 28, see Welter et al., col. 8, lines 1-6.

In considering claims 3, 15, 23, 29, 36 and 43, see Welter et al., col. 8, lines 1-6.

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In considering claims 5, 17, 31, and 39, see Welter et al., col. 8, lines 1-6.

In considering claims 6, 18, 32, and 40, see Welter et al., col. 7, lines 66-67, and col. 8, lines 1-6.

In considering claims 7, 19, 33, and 41, see Welter et al., col. 3, lines 9-10.

In considering claims 8, 20, 34, and 42, see Welter et al., col. 3, lines 9-10.

In considering claims 27, 38, the disclosed method of Welter et al. shows substantial features of the claimed invention as mentioned in claim 1 above.

Furthermore, Welter et al. teaches a system comprising:

- c) at least one CPU, and memory adapted to store computer implemented processes, (col. 4, lines 1-7);
- d) an interface 24 for communicating with a network device 14, (Fig. 1).

Although not explicitly stated, it is implicit that verifying at least one format of selected content information using format verification rules is a computer implemented process in the invention disclosed by Welter et al.

Claims 4, 12, 16, 24, 30, 37, are rejected under 35 U.S.C. 103(a) as being unpatentable over Welter et al., AAPA, and further in view of Jindal et al. U.S. Patent 6,327,622.

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In considering claims 4, 12, 16, 24, 30, 37, although the disclosed methods of Welter et al., and AAPA, shows substantial features of the claimed invention, they fail to explicitly disclose:

- a) the network device being in a load balanced server farm.

Nevertheless, in a similar field of endeavor, Jindal et al. discloses a method for retrieving information concerning a server's general status (col. 3, lines 5-9), comprising:

- a) servers in a load balanced server farm system, (col. 9, lines 48-65).

It is well known in the art to provide server farms for load balancing.

Furthermore, Jindal et al., teaches that one server may only be capable of satisfying the needs of a limited number of clients ( col. 1 lines 18-37). Thus, it would have been obvious to a person of ordinary skill in the art, at the time of the present invention, to modify the teachings of Welter et al., with Jindal et al., in order to test servers in a load balanced server farm system. The motivation for doing so would have been to provide a plurality of web servers for testing to ensure that a client will receive their requested resource no matter how many other clients are trying to access the same resource. Therefore, the claimed inventions (claims 4, 12, 16, 24, 30, 37) would have been an obvious modification of the methods disclosed by Welter et al. and AAPA, in view of Jindal et al.



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**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

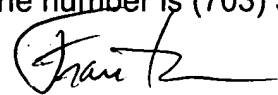
Welter et al., U.S. Patent 6,138,157 discloses a method and apparatus for testing web sites.

Jindal et al., U.S. Patent 6,327,622 discloses a method for load balancing in a network environment.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (703) 305-8760. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703) 305-4792. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7201.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

  
**FRANTZ B. JEAN**  
**PRIMARY EXAMINER**

hp  
12/22/03